

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

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MELISSA DUMONT,  
as the Personal Representative for the  
Estate of Robert Donald Hutt,

Plaintiff,

v.

Case No. 2:14-cv-209

CORRECTIONS CORPORATION OF  
AMERICA, IMAN GONZALEZ,  
KEITH IVENS, TERESA LANIER,  
CORRECT CARE SOLUTIONS, LLC,  
MICHAEL E. RAPAPORT,  
MITCHELL MILLER, and  
ANDREW PALLITO,

Defendants.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

(Doc. 63)

This matter came before the court for a review of the Magistrate Judge's April 29, 2015 Report and Recommendation ("R & R"), in which he recommended that the court grant the Fed. R. Civ. P. 12(b)(2) motion to dismiss filed by Defendants Dr. Keith Ivens, Dr. Teresa Lanier, and Iman Gonzalez (the "Individual CCA Defendants.") (Doc. 63.) In their motion, the Individual CCA Defendants seek dismissal of the complaint for lack of personal jurisdiction. It is uncontested that none of the Individual CCA Defendants resides in Vermont and that each of them resided in Arizona during Robert Donald Hutt's incarceration there. There is no evidence that any of the Individual CCA Defendants own property in Vermont, and only Defendant Lanier has been to Vermont for a period of

approximately two days while on vacation. The Magistrate Judge concluded that Defendant Corrections Corporation of America's contacts with Vermont cannot be attributed to the Individual CCA Defendants. Neither party has filed an objection to the R & R, and the time period to do so has expired.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).


Plaintiff's federal and state law claims arise out of the Individual CCA Defendants' alleged failure to properly and timely diagnose and treat Mr. Hutt's late-stage osteosarcoma while he was in the custody of the Vermont Department of Corrections and housed at Corrections Corporation of America's Florence Correctional Center in Florence, Arizona. In his twenty-eight page R & R, the Magistrate Judge carefully reviewed the factual allegations and legal claims in both the complaint and the motion to dismiss and ultimately recommended dismissal without prejudice of all claims against the Individual CCA Defendants for lack of personal jurisdiction. This court adopts the R & R and its recommendation in its entirety.

### CONCLUSION

For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge's R & R as the court's Order and Opinion, and GRANTS the Individual CCA Defendants' Motion to Dismiss. (Doc. 63.)

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 17<sup>th</sup> day of June, 2015.

  
Christina Reiss, Chief Judge  
United States District Court